

Date: February 22, 2012

Applicant: JOHNSON *et al.*
Serial No: 09/667,693
Filing Date: September 22, 2000
Page: 1 of 3

IN THE UNITED STATES PATENT & TRADEMARK OFFICE

IN RE PATENT APPLICATION OF: James H. JOHNSON *et al.*
SERIAL NO.: 09/667,693
FILING DATE: September 22, 2000
REISSUE OF: U.S. Patent No. 5,812,249
PATENT ISSUE DATE: September 22, 1998
ATTORNEY DOCKET NO.: 032028-0311096
CONFIRMATION NO.: 1007
ART UNIT: 3663
EXAMINER: Mark Hellner
FOR: Speed and Acceleration
Monitoring Device Using
Visible Laser Beams

**REPLY TO NOTICE OF
NON-COMPLIANT AMENDMENT
MAILED
23 JANUARY 2012**

MAIL STOP REISSUE

Commissioner for Patents
P.O. Box 1450
Alexandria, VA. 22313-1450

Dear Sir:

In response to the "Notice of Non-Compliant Amendment" (hereinafter "Notice") mailed **January 23, 2012** in the above-captioned application, and further to the "Response to Non-Final Office Action" filed on January 13, 2012 (hereinafter "01/13/12 Response"), Applicants present the following Remarks in support of the contention that the Notice was issued in error for at least the reason that the above-identified application is a reissue application subject to the manner of making amendments set forth in 37 C.F.R. § 1.173.

The Notice *alleges* that the 01/13/12 Response was non-compliant because the listing of claims included improper status identifiers [see Notice, item 4C]. Applicants respectfully note that the above-identified application is a reissue application. As such, 37 C.F.R. § 1.121(i) dictates that any amendment to the description and claims in reissue

Date: February 22, 2012

Applicant: JOHNSON *et al.*
Serial No: 09/667,693
Filing Date: September 22, 2000
Page: 2 of 3

applications *must* be made in accordance with § 1.173. Accordingly, the status identifiers enumerated in § 1.121(c) are not required for amendments in a reissue application, as 37 C.F.R. § 1.173 applies to reissue applications [see also MPEP § 1453(II) and MPEP § 1453(V)(E)].

37 C.F.R. § 1.173(b)(2), in particular, recites:

Claims. An amendment paper must include the entire text of each claim being changed by such amendment paper and of each claim being added by such amendment paper. ***For any claim changed by the amendment paper, a parenthetical expression "amended," "twice amended," etc., should follow the claim number.*** Each changed patent claim and each added claim must include markings pursuant to paragraph (d) of this section, except that a patent claim or added claim should be canceled by a statement canceling the claim without presentation of the text of the claim.

[Emphasis added].

Moreover, MPEP § 1453(IV) recites:

All amendments subsequent to the first amendment must also be made relative to the patent specification in effect as of the date of the filing of the reissue application, and **not** relative to the prior amendment.

[Emphasis in original].

In the 01/13/12 Response, no amendments were made. However, for the convenience of the Examiner, a listing of the pending claims was provided. Pursuant to MPEP § 1453(IV), the claims were shown with the amendments made relative to the patent specification in effect as of the date of the filing of the reissue application.

In particular,

- claims 1, 2, 7, and 9 of U.S. Patent No. 5,812,249 have each been twice amended, and were therefore properly identified with the status identifier "(Twice Amended)" [see 37 C.F.R. § 1.173(b)(2)].

Date: February 22, 2012

Applicant: JOHNSON *et al.*
Serial No: 09/667,693
Filing Date: September 22, 2000
Page: 3 of 3

- claim 5 of U.S. Patent No. 5,812,249 has been amended one time, and was therefore properly identified with the status identifier “(Amended)” [see 37 C.F.R. § 1.173(b)(2)].
- claims 3 and 8 of U.S. Patent No. 5,812,249 were *previously* cancelled, and were therefore properly identified with the status identifier “(cancelled)” [see 37 C.F.R. § 1.173(b)(2)].
- Claims 10-20, which were newly added in the Preliminary Amendment filed on September 22, 2000, were *previously* cancelled, and were therefore properly identified with the status identifier “(cancelled)” [see 37 C.F.R. § 1.173(b)(2)].

For at least the foregoing reasons, Applicant submits that the 01/13/12 Response fully complies with 37 C.F.R. § 1.173, and therefore requests that 01/13/12 Response be entered and the Notice be withdrawn.

It is believed that no fees are due in connection with the filing of this Response. In the event that it is determined that fees are due, however, the Director is hereby authorized to charge the undersigned's Deposit Account No. 033975 (Ref. No. 032028-0311096).

Respectfully submitted,

Date: February 22, 2012

PILLSBURY WINTHROP SHAW PITTMAN LLP

By: 

Bradford C. Blaise

Registration No. 47,429

Customer No. 00909

P.O. Box 10500
McLean, Virginia 22102
Direct Dial: 703.770.7741
Main: 703.770.7900
Fax: 703.770.7901